



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Comparison of Current and Proposed NR 115 Standards

Prepared for Public Hearings – July and August 2005

This document provides a brief summary of existing standards for Chapter NR 115, Wis. Admin. Code and an analysis of the proposal approved for public hearings on May 25, 2005. For more detailed information on the regulations and proposals, please refer to existing and proposed administrative code language, which is available at: www.dnr.wi.gov/org/water/wm/dsfm/shore/title.htm or from the DNR's Bureau of Watershed Management at 608-266-8030.

Schedule of Public Hearings

- July 12 – Eau Claire – Chippewa Valley Technical College – 620 Clairemont Avenue, Eau Claire, WI 54701
- July 13 – Ashland – Wisconsin Indianhead Technical College – 2100 Beaser Avenue, Ashland, WI 54806
- July 14 – Egg Harbor – Landmark Resort Egg Harbor Room – 7643 Hillside Road, Egg Harbor, WI 54209
- July 19 – LaCrosse – Western WI Technical College – 304 6th Street North, La Crosse, WI 54601
- July 20 - Hayward - Grand Pines Resort Whispering Pines Room - 12355 W. Richardson Bay Road, Hayward, WI 54843
- July 21 – Stevens Point – Sentry World Theater – 1800 North Point Drive, Stevens Point, WI 54448
- July 26 – West Bend – UW Washington County – 400 University Drive, West Bend, WI 53095
- July 27 – Grand Chute – Town Hall – 1900 Grand Chute Boulevard, Grand Chute WI
- July 28 – Rhinelander – Holiday Inn Express – 668 West Kemp Street, Rhinelander, WI 54501
- August 2 – Delavan – Lake Lawn Resort – 2400 East Geneva Street, Delevan, WI 53115
- August 4 – Madison area – Fitchburg Community Center Oak Hall Room – 5520 Lacy Road, Fitchburg, WI 53711

Written comments are welcome on this comment sheet or in a separate letter. Comments can be emailed to Toni Herkert, Shoreland Management Team Leader at Toni.Herkert@dnr.state.wi.us or mailed to her at Toni Herkert, Bureau of Watershed Management - WT/2, PO Box 7921, Madison, WI 53707-7921. Comments can also be turned in at a public hearing or submitted online through the State of Wisconsin Administrative Rules Web site at adminrules.wisconsin.gov. Use the search button and type in the rule number. Electronic comments submitted by the close of the comment period are given the same weight and effect as testimony at public hearings.

All comments must be received by the Department by August 26, 2005.

Definitions

Existing NR 115	▪ Contains 13 definitions.
Hearing Proposal	▪ Proposes 52 definitions.

Land Division Review

Existing NR 115	▪ All land divisions in shoreland areas that create 3 or more parcels of 5 acres each or less within a 5-year period shall be reviewed.
Hearing Proposal	▪ All land divisions in shoreland zone that create 1 or more parcels of 5 acres or less shall be reviewed. ▪ When new lots are created, they may not be divided by a navigable river or stream unless one side meets minimum lot size standards. No portion of the lot or parcel may be developed unless that portion meets or is combined to meet minimum lot size standards. ▪ A county may adopt standards to regulate substandard lots in common ownership.

Minimum Lot Sizes and Development Density

Existing NR 115	▪ Unsewered lots = 20,000 s.f. and 100 feet wide ▪ Sewered lots = 10,000 s.f. and 65 feet wide ▪ No standards for multi-unit development, campgrounds and PUDs.
Hearing Proposal	▪ Unsewered single-family lots = 20,000 s.f. and 100 feet wide ▪ Sewered single-family lots = 10,000 s.f. and 65 feet wide ▪ Standards for multi-unit residential development, campgrounds, and mobile home parks. ▪ Different lot size and density standards for multi-unit developments and alternative developments (i.e. conservation subdivisions, PUDs) may be approved if as or more effective in achieving program objectives ▪ Different campground standards may be used without being a conservation subdivision or PUD if as or more effective in achieving program objectives. ▪ Counties may regulate access lots (previously called keyhole lots). ▪ Development on substandard lots is allowed if certain conditions are met.

Shoreland Setbacks

Existing NR 115

- All structures, except piers, boat hoists and boathouses, shall be setback a minimum of 75 feet from the OHWM.
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Hearing Proposal

- All structures shall be setback a minimum of 75 feet from the OHWM, except for:
 - Structures exempted by other laws:
 - Open-sided and screened structures
 - Fishing rafts
 - Satellite dishes and antennas
 - Reasonable accommodations for disabled persons
 - Structures that counties may exempt:
 - Chapter 30 & 31 structures
 - Walkways, stairways and lifts
 - Signs and flagpoles
 - Water quality improvement structures
 - Wildlife & fisheries habitat improvement structures
 - Erosion control structures
 - Marine fuel dispensing systems
 - Public access sites
 - Roads and driveways
 - Utilities
 - Agricultural fences
 - Captive wild animal fencing
 - Open fences
 - Sidewalks, and steps and landings at entrances
 - Public walkways
 - Reduced setbacks may be permitted if:
 - No compliant building site (30-foot deep building envelope) available
 - Lot is at least 7,000 s.f.
 - Lot has a building location available that is not wetland, floodway, primary buffer, public right-of-way, or lakebed or riverbed
 - Setback is not less than 35 feet from OHWM
 - Same footprint caps apply that apply to expansion of NCPSs
 - Reduced setback is calculated by:
 - Formula: Reduce roadway setback, then OHWM setback to create 30-foot deep building envelope
 - Averaging: Average OHWM setback of principal residences on each side of proposed site within 150 feet and two adjacent structures must be built at less than 75 feet from OHWM
 - Different reduced setback formula may be approved if as or more effective in achieving program objectives
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Shoreland Vegetation

Existing NR 115	<ul style="list-style-type: none">▪ No more than 30 feet in any 100 feet shall be clear-cut in the strip of land 35 feet wide inland from the OHWM.▪ This does not apply to dead, diseased or dying trees and shrubs.
Hearing Proposal	<ul style="list-style-type: none">▪ Primary buffer = OHWM to 35 feet inland.<ul style="list-style-type: none">- Trees and shrubs may be pruned if health and natural shape of tree or shrub is not jeopardized- Trees and shrubs may be removed if exotic or invasive, diseased or damaged, or imminent safety hazard, but must be replaced.▪ Secondary buffer = 35 feet to 75 feet inland. Tree & shrub removal allowed. Ground layer vegetation required.▪ Access corridors (ACs) in primary buffer allowed to provide pedestrian access to waterfront:<ul style="list-style-type: none">- Lots with 200 feet or less of frontage = 30% of lot width or 40 feet, whichever is less.- Lots with more than 200 feet of frontage = 20% of lot width.▪ Existing lawns that do not comply with buffer standards may be maintained, but not expanded, and compliance with primary and secondary buffer standards is required when:<ul style="list-style-type: none">- Residence is constructed or replaced on lot with land within shoreland buffer area.- Nonconforming structure is expanded on lot with land within shoreland buffer area.- County's mitigation system requires compliance.- 20% impervious surface limit is exceeded on lot with land within shoreland buffer area.▪ Activities exempt from buffer standards:<ul style="list-style-type: none">- Agricultural practices and farm drainage ditch maintenance- Forest management activities- Natural areas management activities- Dam and levee maintenance activities- Utility maintenance activities- Road intersection and driveway maintenance activities- Temporary construction access

Impervious Surface Limit

Existing NR 115	<ul style="list-style-type: none">▪ No standards
Hearing Proposal	<ul style="list-style-type: none">▪ Best management practices are implemented and maintained that, to the maximum extent practicable, result in no increase in stormwater discharge from the lot or parcel as a result of impervious surfaces.▪ If 20% or more of the lot is impervious surfaces, the shoreland buffers are preserved or established on the lot or parcel in compliance with the standards in s. NR 115.15 (applies only to lots with land within 75' feet of OHWM).

Land Disturbing Activities

Existing NR 115	<ul style="list-style-type: none">▪ Permit in accordance with state and federal laws and complete in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
Hearing Proposal	<ul style="list-style-type: none">▪ For land disturbing activities, property owners must submit erosion control and revegetation plans to minimize erosion and sedimentation caused by activity.▪ A county permit is required if the project will disturb 2,000 s.f. or more of land.▪ Projects that have a permit granted under ch. 30, stats., or ch. NR 216 are exempt from the county permit requirement.▪ Counties may require a wetland buffer to minimize land disturbing activities.

Nonconforming Accessory Structures

Existing NR 115	<ul style="list-style-type: none">▪ Ordinary maintenance and repairs allowed with no limits▪ Structural alterations and expansions allowed, if over the life of the structure, costs do not exceed 50% of the equalized assessed value of the structure*▪ Replacement generally prohibited**
Hearing Proposal	<ul style="list-style-type: none">▪ Ordinary maintenance and repairs allowed with no limits▪ Structural alterations allowed if mitigation specified by the county is implemented▪ Expansion or replacement prohibited**

*Counties have option of using an alternative method, besides the 50% rule, to require eventual compliance with the terms of the shoreland zoning ordinance.

**A structure (principal or accessory) damaged or destroyed by violent winds, fire or vandalism may be replaced if the requirements of s. 59.692 (1s) are satisfied.

Nonconforming Principal Structures

Existing NR 115	<ul style="list-style-type: none">▪ Ordinary maintenance and repairs allowed with no limits▪ Distinction between ordinary maintenance and repairs and structural alterations are difficult to make.▪ Structural alterations and expansions allowed, if over the structure, costs do not exceed 50% of the equalized assessed value of the structure*▪ Replacement prohibited**
Hearing Proposal	<ul style="list-style-type: none">▪ Ordinary maintenance and repairs allowed with no limits▪ Clear definition and distinction between maintenance and repairs and structural alteration.▪ Structural alterations allowed if mitigation specified by the county is implemented▪ Expansions allowed if:<ul style="list-style-type: none">- Lot is at least 7,000 s.f.- Entire structure is setback at least 35 feet from OHWM, is on side of structure away from water or to enclose a footprint (i.e. an L-shaped or U-shaped structure), & footprint cap is not exceeded- Mitigation specified by the county is implemented▪ Footprint cap options:<ul style="list-style-type: none">- If no compliant building location, at 35 feet = 1000 s.f. & at 74 feet = 1975 s.f., and if a compliant building is available, at 35 feet = 750 s.f. & at 74 feet = 1725 s.f. (For each additional foot that structure is setback, footprint cap increases by 25 s.f. – See Appendix A of proposal)▪ Replacement allowed if:**<ul style="list-style-type: none">- Lot is at least 7,000 s.f.- On existing foundation anywhere- On new foundation if setback at least 35 feet from OHWM.- Between OHWM & 35 feet of the OHWM, the height of new structure may not exceed height of pre-existing structure, except for conversion of flat roof to pitched roof or old pitched roof to new pitched roof.- New structure does not extend closer to OHWM than pre-existing structure.- Mitigation specified by the county is implemented.▪ Replacement is prohibited if structure has no foundation, the foundation extends below the OHWM, or the structure extends over the OHWM.

*Counties have option of using an alternative method, besides the 50% rule, to require eventual compliance with the terms of the shoreland zoning ordinance.

**A structure damaged or destroyed by violent winds, fire or vandalism may be replaced if the requirements of s. 59.692 (1s) are satisfied.

Mitigation

Existing NR 115	<ul style="list-style-type: none">▪ No performance standards
Hearing Proposal	<ul style="list-style-type: none">▪ Counties shall adopt a mitigation system that is roughly proportional to impacts of proposed projects.▪ Level 1 mitigation requirements shall be determined by counties and apply to:<ul style="list-style-type: none">- Structural alterations of nonconforming accessory structures- Replacement of nonconforming accessory structures in campgrounds and mobile home parks▪ Level 2 mitigation requirements shall include, at a minimum, restoration of primary shoreland buffer, proportional to the impacts of the proposed project and apply to:<ul style="list-style-type: none">- Structural alteration of nonconforming principal structures- Expansion of nonconforming principal structures- Replacement of nonconforming principal structures
